

## REMARKS/ARGUMENTS

Applicant notes that claim amendments were submitted with the January 26, 2010 Reply and Amendment under 37 C.F.R. §1.116, and considered but not entered by the Examiner, as indicated on the Advisory Action mailed by the USPTO on February 16, 2010. Accordingly, Applicant's claim amendments reference the last-entered claim listing provided in the Reply and Amendment under 37 C.F.R. §1.111 filed June 17, 2009.

Claim 2 is presented for consideration and examination in view of the foregoing amendments and following remarks. Claim 1 was previously cancelled without prejudice or disclaimer. Applicant did not intend to dedicate the subject matter of claim 1 to the public and Applicant reserves the right to file a continuation application based on the subject matter of cancelled claim 1.

In the outstanding Office Action, the Examiner objected to the specification for not supporting the claimed term "Storyboard" and the Examiner rejected claim 2 under 35 U.S.C. §101 as being directed toward non-statutory subject matter. By this Response and Amendment, claim 2 is amended to recite, *inter alia*, "a computerized process." Support for the amendments to claim 2 can be found in the last paragraph of the originally filed specification. Therefore, it is respectfully submitted that the above amendments do not introduce any new matter to this application within the meaning of 35 U.S.C. §132.

## Summary of Examiner Interview(s)

The Applicant thanks Examiner FLETCHER and Primary Examiner K. MOSSER for the courtesies extended to Applicant's Representative in the telephone Interviews conducted February 16 and 17, 2010 to discuss the Advisory Action mailed February 16, 2010, the maintained rejection of the claim under 35 U.S.C. 101 therein, and proposed claim language to overcome the rejection.

Applicant thanks the Examiner(s) for their suggestion of pertinent passages of the MPEP (§ 2106.01) and claim phrasing that may overcome the 101 rejection, in view of the seemingly continually evolving interpretation of 35 U.S.C. §101 in the courts and the U.S. Patent and Trademark Office. Phrasing discussed by the Examiner(s) and Applicant's Representative and favorably regarded by the Examiner(s) included "non-transitory computer-readable medium" and "the steps of a program." Accordingly, Applicant submits claim amendments as proposed to the Examiner(s).

### **Objection to the Specification**

By this Response and Amendment, claim 2 has been amended to recite a computer screen that is bifurcated into two halves. Support for this language can be found in the last paragraph of the originally filed specification, which discloses that "each Figure is available as a computer screen." Further support can be found in the description of Figure 2, which discloses that "[t]he students divide the sheet into halves...." Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the specification.

### **Rejection to Claim 2**

The Examiner rejected claim 2 as being directed toward non-statutory subject matter. Claim 2 has been amended to recite "*[a] computerized process for teaching accounting principles, a computer executing the steps of a program recorded on a non-transitory computer-readable medium, the program executing the computerized process comprising:*

*displaying on a computer screen a first ticket icon representing a first ticket having a first color and displaying on the computer screen a second ticket icon representing a second ticket having a second color;*

*bifurcating the computer screen into two halves, a first half comprising the first color and a second half comprising the second color;*

*bifurcating the computer screen into two halves, a first half comprising the first color and a second half comprising the second color;*

*displaying on the computer screen a first bucket icon and a second bucket icon, assigning the display of each bucket icon to either the first half or the second half of the computer screen,*

*wherein each bucket icon is colored to match the color corresponding to the half of the screen upon which it is displayed, and*

*wherein the first and second ticket icons each has an associated respective value and the first and second bucket icons each has an associated respective value; and*

*determining a computer-calculated change in associated value of either of the two bucket icons resultant from placing the first or the second ticket icon in one of the bucket icons,*

*wherein the change in associated value is an increase in the respective associated value of either of the two buckets if the bucket icon is the same color as the ticket icon that is placed therein, and the change is a decrease in respective associated value if the bucket icon is a different color from the ticket icon that is placed therein.”*

(emphases added)

Support for the phrase of claim 2 reciting “a computerized process” can be found in the last paragraph of the originally filed specification, which discloses that “it is also possible for the system to be computerized.” Support for the step “determining a computer-calculated change in associated value of either of the two bucket icons...” can be found in the last paragraph of the specification, which discloses that “the program can be programmed to enable visual images of note *of appropriate value.*”

The Examiner indicated that “[i]n order for a claimed process to be considered statutory it must be: (1) tied to a particular machine or apparatus *or* (2) transform a particular article into a different state or thing. The use of a specific machine or transformation of an article must impose meaningful limits on the claim’s scope to impart patent-eligibility; the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity....”

*See Office Action pages 2-3, item 4.*

The Advisory Action mailed February 16, 2010 asserted that “[t]he applicant has amended

claim 2 to positively recite ‘a computerized process... the process contained in a computer program...’. This recitation is directed to non-statutory subject matter...the recitation indicates that the claimed invention is drawn to a computer product per se, which is not statutory subject matter under 35 U.S.C. 101.” *See* Advisory Action item 11.

As stated in section 2106.01 of the *Manual of Patent Examining Procedure (MPEP)*, a claim remains statutory subject matter irrespective of the fact that a computer program is included in the claim. “In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. See *Lowry*, 32 F. 3d at 1583-84, 32 USPQ2d at 1035.” This “result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program.” *See* MPEP 2106.01(II).

Claim 2 recites *inter alia*, “a computerized process for teaching accounting principles, a computer executing the steps of a program recorded on a non-transitory computer-readable medium, the program executing the computerized process comprising....” Thus, in the presently claimed subject matter, a claimed computer executes the steps of “a claimed computer-readable medium encoded with a computer program,” (statutory per *Lowry*) and the program is thereby “executing the computerized process.” Applicant respectfully submits that with respect to the standards for satisfying statutory subject matter, not only is the claimed “*computerized process*” “tied to a particular machine or apparatus” as suggested in the post *In re Bilski* era as grounds for statutory subject matter, but the statutory basis is further reinforced by the *particularly* programmed “*computer executing the steps of a program*,” and that the program is “recorded on a *non-transitory* computer-readable medium” to effect “executing the computerized process” as recited in the claims

(emphases added). Furthermore, and as required by the Examiner, the claims recite additional “involvement of the machine... in the claimed process [that are] not merely... insignificant extra-solution activity.”

Accordingly, Applicant submits that claim 2 is tied to a particular machine or apparatus as required by the Examiner and further suggested by MPEP 2106.01 and the current interpretation and understanding of 35 U.S.C. §101 before the U.S. Patent and Trademark Office and is, therefore, directed toward statutory subject matter. As such, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §101.

### **Miscellaneous**

Entry of this Response and Amendment is respectfully requested since it is believed to place the application in condition for allowance or in better condition for appeal and does not raise any new issues that require further consideration and/or search. Applicant notes that no substantive amendments were made to the steps recited in method claim 2. Rather, the *non-transitory* medium on which the steps are performed was simply made clearer in claim 2. As such, Applicant requests that the Examiner enter the amendments and allow this application as soon as conveniently possible.

## CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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